

Extract from Public Law 82-375

Appropriations or other funds made available by this or any other Act for personal services during the fiscal year 1952 shall be available for pay increases, comparable to those provided by Public Law 201, approved October 24, 1951, granted by administrative action pursuant to law: Provided, That such pay increases may be made retroactively effective on the same basis as if they had been authorized by said law:

Excerpt from Section 161 d of the Atomic Energy Act of 1954

"...Such rates of compensation may be adopted by the Commission as may be authorized by the Classification Act of 1949, as amended, as of the same date such rates are authorized for positions subject to such Act."

This provision included by amendment contained in Public Law 85-681.

DRAFT

4 September 1964

1. The Government Employees Salary Reform Act of 1964 in Title III establishes a new Federal Executive Salary schedule of five levels and explicitly provides that the new rates of compensation applicable to each level shall be retroactively effective as of the first day of the first pay period beginning after 1 July 1964. For many years the Agency has had a small number of senior executive positions the compensation of which had been fixed at levels in excess of GS-18 under the Classification Act.

2. During congressional consideration of the Executive Salary Schedule, the House-passed version provided for six levels of executive positions and in Levels IV, V and VI authorized the President within general standards to determine those positions to be placed in those three levels. In the Senate-passed version,

Levels IV, V and VI were compressed into Levels IV and V with specific positions being designated for each of these levels. In the House bill it was provided that assistant secretaries, and positions with equivalent responsibilities, would be placed in Level IV. In the Senate bill, assistant secretaries and positions of equivalent responsibilities were also included in Level IV but were designated by title of specific positions.

3. Careful consideration was given by the Agency as to whether or not its senior executive positions should be included in the Administration's proposal to the Congress regarding those positions to be included in the several Executive Salary levels. Essentially, for security reasons, it was determined that the Agency's executive positions should not be included in the legislative proposal. In reaching this conclusion the Agency determined that

it would rely on the DCI authorities under P. L. 81-110 to equate its senior executive positions at appropriate levels equivalent to specific positions which would be included in the legislation.

4. The history of the Agency's establishment and development of the concept of senior executive positions is pertinent. In 1956 it was determined that there were about 25 to 30 Agency positions the responsibilities of which were clearly over and above those attaching to a GS-18 position. At that time it was determined that there would be three categories of Agency senior executive positions. It was further determined that the positions of the Deputy Directors which were placed in Category I had responsibilities equivalent to those of Assistant Secretaries of departments and were to receive compensation equivalent to that provided for Assistant Secretaries under the FEPA of 1956. The compensation for Agency executive positions

in Categories II and III was fixed at rates above that of a GS-18 and below that of Assistant Secretaries. This concept was included in correspondence to the President of 8 August 1956 and in correspondence of 10 August 1956 to the four subcommittees of the Congress who were concerned with Agency activities. The President and the four congressional committees informally approved the Agency's concept of these senior executive positions.

5. Subsequent to 1956 as the result of successive upward revisions of compensation payable to a GS-18, the salaries applicable to Category II and III executives was likewise revised upward. This was done to maintain the integrity of the senior executive concept. In October of 1962 the compensation payable to a GS-18 reached \$20,000 while the compensation of assistant secretaries remained

static at \$20,000. Accordingly, on 29 September 1962 an upward adjustment was approved by the Agency so that senior executives of all three categories were established at a compensation level of \$20,000. It is noted that under FEPA the salary of the DCI was established at \$21,000 and that of the DDCI at \$20,500.

6. The Agency on 4 November 1963 issued a memorandum providing among other things that:

"Pending revision of the Federal Executive Pay Act of 1956, compensation for incumbents of all three categories will continue at the GS-18 rate."

The quoted provision was not intended to abolish the senior executive positions but explicitly recognized pendency of proposed legislation to increase compensation of executives in Government generally. Therefore, pending the outcome of such proposals, it was intended that senior executive positions should receive GS-18 rates. This provision implicitly evidences Agency intent to apply the pending

compensation provisions for Government executives to its senior executives.

7. During the course of the congressional consideration of the Executive Salary Act of 1964, the Agency considered what action it should take internally to effectuate the intent that Agency senior executive positions were to be equated to certain executive positions, the salary levels of which would be established by the Executive Salary Act. It was the intent of the Agency that those positions in Category I, which had been considered since 1956 as being equivalent to assistant secretaries, be accorded the same salary treatment as would be afforded assistant secretaries of departments under the pending Executive Pay Bill.

8. Knowing that there might be retroactive aspects of the Executive Pay Bill, the Deputy Director for Support drafted an action paper in June to equate our executive positions to the Executive Salary Act. At that time there was only the House version to refer to, and



the Deputy Director for Support therefore recommended that "the salary rates of the CIA executive pay scale be adjusted to equate Category I to Level IV and Categories II and III to Levels V and VI, respectively, of the Federal Executive Salary Scale as soon as that scale becomes effective." It is obvious from this memorandum that it was intended to make these adjustments on the same date they were effective for the executive salary scale. This memorandum was approved by the Director's office. In early July it became apparent that the Senate version might be finally accepted, and the Deputy Director for Support proposed a revision dividing the executive pay scale into two sections and equating them to Levels IV and V of the Senate bill. No new positions were created; this was merely a revision of the same list that was approved in June. This proposal was approved by the Deputy Director of Central Intelligence on 21 July 1964.

9. This latest schedule of the Agency senior executive

positions does not differ in concept from that obtaining with respect to the original group of positions approved as early as August of 1956. Therefore, it is believed that there is clear evidence of the Agency's long-standing intent to consider these senior executive positions equivalent to positions in Levels IV and V of the Executive Pay Schedule. The fact that security considerations prohibited the Agency from including these positions in the proposed executive salary legislation should not negate the Agency's long-established practice and intent that these positions would be treated similar to those positions included in the law. Therefore, to the extent that the law authorized retroactive increases for positions in Levels IV and V designated in that law, similar increases are warranted for Agency positions equivalent to those Levels.

10. On 7 August 1964 the Director further formalized the equating of the Agency executive scale to Levels IV and V of the

Executive Pay bill. It is the Agency's view, however, that this action was not a new and determinative action since, as evidenced by the facts stated above, this general concept has existed since 1956 and the specific concept of equating the Agency's three categories to Levels IV and V is clear. Thus, it is the Agency's view that there is clear purpose to accord this group of positions similar treatment as afforded the executive positions listed in the Executive Pay bill including payment of the increases in compensation effective as of the date authorized by the new Executive Pay bill.